

Introduced by Senator Monning
(Principal coauthor: Assembly Member Chiu)

February 18, 2015

An act to amend Section 369.5 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as introduced, Monning. Dependent children: psychotropic medication.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

This bill would require an order authorizing administration of psychotropic medications to only be granted on clear and convincing evidence of specified matters, and would prohibit the court from authorizing the administration of psychotropic medications for a child unless a 2nd independent medical opinion is obtained from a child psychiatrist or a psychopharmacologist if one or more specified circumstances exist, including if the request is for any class of

psychotropic medication for a child who is 5 years of age or younger. The bill would prohibit the court from authorizing the administration of a psychotropic medication unless the court is provided documentation that appropriate screenings and tests for the child have been completed no more than 30 days prior to submission of the request to the court.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 369.5 of the Welfare and Institutions
2 Code is amended to read:

3 369.5. (a) If a child is adjudged a dependent child of the court
4 under Section 300 and the child has been removed from the
5 physical custody of the parent under Section 361, only a juvenile
6 court judicial officer shall have authority to make orders regarding
7 the administration of psychotropic medications for that child. The
8 juvenile court may issue a specific order delegating this authority
9 to a parent upon making findings on the record that the parent
10 poses no danger to the child and has the capacity to authorize
11 psychotropic medications. Court authorization for the
12 administration of psychotropic medication shall be based on a
13 request from a physician, indicating the reasons for the request, a
14 description of the child's diagnosis and behavior, the expected
15 results of the medication, and a description of any side effects of
16 the medication. On or before July 1, 2000, the Judicial Council
17 shall adopt rules of court and develop appropriate forms for
18 implementation of this section.

19 (b) *An order authorizing the administration of psychotropic*
20 *medications pursuant to this section shall only be granted on clear*
21 *and convincing evidence of all of the following:*

22 (1) *The medication is not being used as a chemical restraint.*

23 (2) *If the child is 12 years of age or older, the child, after being*
24 *advised of alternative treatments and informed of the benefits and*
25 *risks of the medication, has given his or her informed consent.*

26 (3) *The prescribing physician submitting the request for*
27 *psychotropic medication conducted a comprehensive examination*
28 *of the child in compliance with Section 2242 of the Business and*
29 *Professions Code that takes into account the child's trauma history.*

30 (4) *The prescribed dosage is appropriate for the child's age.*

1 (5) *The short- and long-term risks associated with the use of*
2 *psychotropic medications by the child does not outweigh the*
3 *reported benefits to the child.*

4 (6) *There are no less invasive treatment options available other*
5 *than the administration of psychotropic medications.*

6 (c) *A court shall not issue an order authorizing the*
7 *administration of psychotropic medications for a child unless a*
8 *second independent medical opinion is obtained from a child*
9 *psychiatrist or a psychopharmacologist if one or more of the*
10 *following circumstances exist:*

11 (1) *The request is for any class of psychotropic medication for*
12 *a child who is five years of age or younger.*

13 (2) *The request would result in the child being administered*
14 *multiple psychotropic medications concurrently.*

15 (3) *The request is for the concurrent administration of any two*
16 *drugs from the same class unless the request is for medication*
17 *tapering and replacement that is limited to no more than 30 days.*

18 (4) *The request is for a dosage that exceeds the amount*
19 *recommended for children.*

20 (d) *The court shall not authorize the administration of the*
21 *psychotropic medication unless the court is provided*
22 *documentation all the appropriate lab screenings, measurements,*
23 *or tests for the child have been completed in accordance with the*
24 *accepted medical guidelines no more than 30 days prior to*
25 *submission of the request to the court.*

26 ~~(b)~~

27 (e) (1) *In counties in which the county child welfare agency*
28 *completes the request for authorization for the administration of*
29 *psychotropic medication, the agency is encouraged to complete*
30 *the request within three business days of receipt from the physician*
31 *of the information necessary to fully complete the request.*

32 (2) *Nothing in this subdivision is intended to change current*
33 *local practice or local court rules with respect to the preparation*
34 *and submission of requests for authorization for the administration*
35 *of psychotropic medication.*

36 ~~(e)~~

37 (f) *Within seven court days from receipt by the court of a*
38 *completed request, the juvenile court judicial officer shall either*
39 *approve or deny in writing a request for authorization for the*
40 *administration of psychotropic medication to the child, or shall,*

1 upon a request by the parent, the legal guardian, or the child's
2 attorney, or upon its own motion, set the matter for hearing.

3 ~~(d)~~

4 (g) Psychotropic medication or psychotropic drugs are those
5 medications administered for the purpose of affecting the central
6 nervous system to treat psychiatric disorders or illnesses. These
7 medications include, but are not limited to, anxiolytic agents,
8 antidepressants, mood stabilizers, antipsychotic medications,
9 anti-Parkinson agents, hypnotics, medications for dementia, and
10 psychostimulants.

11 ~~(e)~~

12 (h) Nothing in this section is intended to supersede local court
13 rules regarding a minor's right to participate in mental health
14 decisions.

15 ~~(f)~~

16 (i) This section shall not apply to nonminor dependents, as
17 defined in subdivision (v) of Section 11400.